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D E C I S I O N
of 10 March 2004

Case Number: T 0117/99 - 3.2.5

Application Number: 91901880.4

Publication Number: WO 92/11989

IPC: B29C 45/06

Language of the proceedings: EN

Title of invention:

Apparatus and method for use in injection moulding

Applicant:

BRENT, David Rudy

Opponent:

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Headword:

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Relevant legal provisions:

EPC Art. 112a of the revised version of the EPC
EPC R. -

Keyword:

"Jurisdictional measure to be taken in response to a petition aimed at the revision of a final decision taken by a Board of Appeal"

Decisions cited:

G 0001/97

Catchword:

-



Case Number: T 0117/99 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 10 March 2004

Former Appellant:
(Applicant)

BRENT, David Rudy
20 Chantry Close
Sunbury on Thames
Middlesex TW16 7TH (GB)

Decision concerned:

Decision of the Board of Appeal 3.2.5 of the
European Patent Office posted 18 December 2003
dismissing the appeal.

Composition of the Board:

Chairman: W. Moser
Members: W. R. Zellhuber
H. M. Schram

Summary of Facts and Submissions

- I. Appeal case T 117/99 referred to the appeal of the former appellant (applicant) against the decision of the Examining Division refusing the European patent application No. 91 901 880.4. Board of Appeal 3.2.5 (the Board) rendered its final decision on 18 December 2003 dismissing the appeal.
- II. By a letter dated 5 January 2004, the former appellant filed a petition for review either by the Board or, if necessary, by the Enlarged Board of Appeal. In the petition the former appellant requested that (i) the decision of 18 December 2003 be overturned or otherwise set aside, (ii) his appeal be now granted, and (iii) he be able to proceed with the examination, or (iv) the whole matter be referred to the Enlarged Board of Appeal.

Reasons for the Decision

1. The petition for review of the former appellant is aimed at the revision of the final decision of the Board rendered on 18 December 2003.
2. Under new Article 112a of the revised version of the EPC (cf. Act revising the EPC, published in the special edition No. 4 of the Official Journal (OJ) 2001, pages 3 to 51, Article 1, item 55), the Enlarged Board of Appeal would be competent to decide on the petition. However, the revised text of the EPC has not entered into force yet. Furthermore, new Article 112a EPC does not belong to the provisions of the revised version of

the EPC which are applicable provisionally and therefore effective immediately (cf. Article 6 of said Act revising the EPC).

3. Consequently, the findings of decision G 1/97 of the Enlarged Board of Appeal (published in OJ EPO 2000, 322) apply when considering the present petition (cf. point 7 of the Reasons). Thus, as regards the jurisdictional measure to be taken in response to the petition, the Board has to refuse it as inadmissible (cf. decision G 1/97, point 6 of the Reasons).

Order

For these reasons it is decided that:

The petition for review is refused as inadmissible.

The Registrar:

The Chairman:

P. Cremona

W. Moser